

Amendment and Response Under 37 C.F.R. 1.116

Applicant: Kelly L. Morrison et al.

Serial No.: 10/686,385

Filed: October 14, 2003

Docket No.: C270.175.101

Title: SYSTEM AND METHOD FOR REMOTE PROCESSING OF PHARMACY ORDERS

REMARKS

This is responsive to the Final Office Action mailed November 24, 2009, in which claims 1-23 were rejected. With this Response, claims 1, 7 and 14 have been amended. After entry of this Response, claims 1-23 remain pending in the application and are presented for reconsideration and allowance.

Claim Rejections under 35 U.S.C. § 103

Claims 1-4, 7-11, 14-16 and 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al., U.S. Patent No. 6,564,121 ("Wallace").

There are fundamental differences between Wallace and the claimed invention.

As most clearly illustrated in Figs. 3 and 6A, the Wallace system includes workstations 322 that are used by technicians to enter the prescription information 366. The prescription information is reviewed by the pharmacist at the host pharmacy workstation 344. Once the prescription is approved by the pharmacist, the host pharmacy workstation 344 sends a command to the workstation 340 and the associated remote dispenser 324 to dispense the prescription 388.

The indicated benefit of the Wallace system is that the workstation 340 and the associated remote dispenser 324 may be operated by a technician. The cost of dispensing the prescriptions is thereby lower than the cost if a pharmacist was located at the location where the prescription was being dispensed.

Additionally, because the host pharmacy workstation 344 is associated with a large number of workstations, the utilization rate of the pharmacist at the host pharmacy workstation 344 is higher than the utilization rate if the pharmacist was located at the location where the prescription was being dispensed.

Wallace indicates that the system thereby enables prescriptions to be dispensed in a cost-effective manner at small to medium size facilities. Col. 6, lines 12-15.

On the other hand, the claimed invention is directed to a prescription fulfillment system that provides for the pharmacist workload to be distributed between a plurality of remote processing centers. The claimed invention thereby enables the prescription fulfillment process to

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be efficiently distributed among the plurality of remote processing centers such that the prescriptions are completed more quickly than if such a process was not used.

As indicated in the present application, the pharmacy orders are routed to remote order processing center personnel who review, annotate, index, enter, and authorize pharmacy orders for medication from multiple hospitals while accessing various different pharmacy information systems. Paragraph [0089]

Each of the independent claims pending in the present application have been amended to conform to the comments set forth above.

Because of the differences between Wallace and the claimed invention, it is submitted that independent claims 1, 7 and 14 are not obvious when viewed in light of Wallace. Claims 2-4, 8-11, 15-16 and 18-20 depend from one of the preceding independent claims and, as such, are also not obvious when viewed in light of Wallace. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 21-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wallace.

Claims 21-23 depend from either independent claim 1, 7 or 14. For the reasons set forth above, it is submitted that independent claims 1, 7 and 14 are not obvious when viewed in light of Wallace. Therefore, claims 21-23 are also not obvious when viewed in light of Wallace. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 5-6, 12-13 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wallace et al. in view of Gingrich et al., U.S. Publication No. 2004/0006490 (“Gingrich”).

The Examiner acknowledged that Wallace fails to disclose that the procedures are queue/facility specific and/or based on contractual rules or agreements involving the specific facility. The Examiner then cited Gingrich for disclosing that it is well known in the prescription fulfillment and pharmacy benefits management art to provide for procedural checks as dictated by contractual obligation guidelines. The Examiner then contended that it would have been obvious to combine Wallace and Gingrich to produce the claimed invention.

Claims 5-6 depend from independent claim 1. Claims 12-13 depend from independent claim 7. Claim 17 depends from independent claim 14. Gingrich does not overcome the

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deficiencies that are set forth above with respect to the rejection of independent claims 1, 7 and 14 based upon Wallace and, as such, claims 5-6, 12-13 and 17 are not obvious when viewed in light of the combination of Wallace and Gingrich. Reconsideration and withdrawal of this rejection are respectfully requested.

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CONCLUSION

In view of the above, Applicant respectfully submits that pending claims 1-23 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-23 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(h)(i). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Michael A. Bondi at Telephone No. (612) 573-2000, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

Dicke, Billig & Czaja, PLLC
ATTN: CAH Matters
Fifth Street Towers, Suite 2250
Minneapolis, MN 55402
Customer No. 88958

Respectfully submitted,
Kelly L. Morrison et al.,
By their attorneys,

Date: March 3, 2010

/Michael A. Bondi/
Michael A. Bondi
Reg. No. 39,616